

Samuel Brown (Ark. Bar No. 2020210)
Sanford Law Firm, PLLC
Kirkpatrick Plaza
10800 Financial Centre Pkwy, Suite 510
Little Rock, Arkansas 72211
(501) 500-9744
samuel@sanfordlawfirm.com

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Todd Heichel, Rudy Castro, Justin
Garmendia, Joshua Holgate and Randi
Pitts, Each Individually and on Behalf of
All Others Similarly Situated,

Plaintiffs,

v.

Tri City Transport, LLC, SWWOOP,
LLC, and Michael Butler,

Defendants.

NO. 2:22-cv-1513-PHX-SMM

**DECLARATION OF
BILLY DURBIN**

I, Billy Durbin, do hereby swear, affirm, and attest as follows, based upon my
personal knowledge of the matters contained herein:

1. My name is Billy Durbin, and I am over the age of 18 and duly qualified
to execute this declaration.

2. I am a resident and domiciliary of the State of Arizona.

1 3. I was employed by Tri City Transport, LLC, SWWOOP, LLC, and
2 Michael Butler (“Defendants”), from June of 2022 to December of 2022. Defendants
3 operated a non-emergency medical transport and medical supply delivery business.

4 4. I worked for Defendants as a delivery driver. My employment caused me
5 to drive to various places in Arizona to perform deliveries.

6 5. Defendants paid me \$1 per mile driven, regardless of how many hours I
7 worked each week.

8 6. As a delivery driver, my primary duties were delivering medicine and
9 transporting people to appointments.

10 7. I was required to maintain and pay for an operable, safe, and legally
11 compliant automobile, while paying for related costs, gasoline, insurance, cell phone
12 costs, and other necessary delivery equipment.

13 8. I estimate that I drove approximately 750 miles and worked 60 hours per
14 week during my time with Defendants.

15 9. I frequently worked hours over 40 in a week and did not receive an
16 overtime premium. Accordingly, I am owed an overtime premium rate equal to half the
17 applicable Arizona minimum wage for all hours worked over 40 during my time
18 working for Defendants.

19 10. I was not reimbursed for any actual expenses and was not reimbursed at
20 the IRS standard business mileage rate for the miles I drove while in my own vehicle.

21

22

1 Accordingly, Defendants received an unlawful “kickback” equal to the applicable IRS
2 reimbursement rate multiplied by the number of miles I drove per week.

3 11. Defendants paid me nothing for my last 10 weeks of work. There had been
4 previous issues with payment, so during my time working in this period I continued to
5 believe I would eventually be paid.

6 12. Defendant owes me a total of \$75,533.25 which is shown by a calculation
7 of damages that is submitted as Exhibit 1. I am owed \$25,177.75 in back wages for
8 unpaid overtime premiums and minimum wages, and under the liquidated damages
9 provisions of the Fair Labor Standards Act, I am owed an equal amount in liquidated
10 damages. In addition, under Arizona Revised Statue § 23-355, I am entitled a further
11 equal amount as treble damages.

12 **PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF**
13 **PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA**
14 **THAT THE FOREGOING IS TRUE AND CORRECT.**

15 Executed this 14 day of August, 2024.

16 

17 _____
18 **BILLY DURBIN**
19
20
21
22

Date	Total Estimated Miles	Total Hours	Total Pay	Minimum Wage	IRS Reimbursement Rate	Kickback	Minimum Wage Damages	OT Damages	Total Damages	Treble Damages
6/1/22	750	60	\$750.00	\$12.80	0.585	\$438.75	\$456.75	\$128.00	\$584.75	\$1,754.25
6/8/22	750	60	\$750.00	\$12.80	0.585	\$438.75	\$456.75	\$128.00	\$584.75	\$1,754.25
6/15/22	750	60	\$750.00	\$12.80	0.585	\$438.75	\$456.75	\$128.00	\$584.75	\$1,754.25
6/22/22	750	60	\$750.00	\$12.80	0.585	\$438.75	\$456.75	\$128.00	\$584.75	\$1,754.25
6/29/22	750	60	\$750.00	\$12.80	0.585	\$438.75	\$456.75	\$128.00	\$584.75	\$1,754.25
7/6/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
7/13/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
7/20/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
7/27/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
8/3/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
8/10/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
8/17/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
8/24/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
8/31/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
9/7/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
9/14/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
9/21/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
9/28/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
10/5/22	750	60	\$750.00	\$12.80	0.625	\$468.75	\$486.75	\$128.00	\$614.75	\$1,844.25
10/12/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
10/19/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
10/26/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
11/2/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
11/9/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
11/16/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
11/23/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
11/30/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
12/7/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
12/14/22	750	60	\$0.00	\$12.80	0.625	\$468.75	\$1,236.75	\$128.00	\$1,364.75	\$4,094.25
							\$21,465.75	\$3,712.00	\$25,177.75	\$75,533.25